

### **REMARKS**

Although titled "Amendment 'D'", this is a resubmission of Amendment "C" dated January 14, 2009, in response to the Non-Compliant Amendment mailed January 30, 2009. The following remarks are a restatement of the remarks made in Amendment "C."

These remarks and the accompanying amendment are responsive to the Office Action mailed December 13, 2007 (hereinafter referred to as the "original Office Action"). The original Office Action examined prior Claims 10-24. In response to the original Office Action, an Amendment B was filed May 13, 2008 (hereinafter referred to as "Amendment B"). Amendment B aimed to cancel prior Claims 10-24 and enter new Claims 25-29. A subsequent Office Action (hereinafter referred to as the "subsequent Office Action") mailed October 17, 2008 declared the Amendment B to be non-responsive, and gave a one month shortened statutory period for reply that expired November 17, 2008. A petition and fee for a two-month extension of time accompany this response thereby extending the period of response until January 17, 2009. The subsequent Office Action indicated that Amendment B was not responsive because Claims 25 through 29 were directed towards an invention that is independent and distinct from the invention originally claimed.

This Amendment "C" addresses the subsequent Office Action by treating the Amendment "B" as not entered. Accordingly, the Claims 10-24 are treated as though they were not cancelled for purposes of providing appropriate status markers and revision marking showing material added and deleted. Furthermore, prior new Claims 25-29 are treated as not having been added. To the extent that new Claims 25-29 were entered, the Examiner is respectfully requested to cancel Claims 25-29 as presented in Amendment "B". Accordingly, Claims 10-24 remain for

further examination. Having thus addressed the subsequent Office Action, the remainder of these remarks respond to the original Office Action.

As a preliminary matter, since the application is quite lengthy, the undersigned wishes to assist the Examiner in locating at least some portions of the specification that support Claims 10-24, both as previously presented, and as amended herein. In particular, Claims 10-24 are supported in paragraphs 0014 and in the passages extending from paragraphs 0635 through 0675 inclusive.

In the amendments to Claims 10, 11, 14, 16, 17, 19, 20, 21, 23 and 24 made herein, the applicants has newly recited that a (first or second) communication apparatus transmits transmission power control information which is based on SIR measurement results in the (first or second) communication apparatus to another (second or first) communication apparatus, and/or that the another (second or first) communication apparatus receives the transmission power control information which is based on SIR measurement results in the (first or second) communication apparatus. This is not new matter, since this is clearly described in paragraphs 0642, 0647 and 0648 of the specification (for both of reverse transmission power control and forward transmission power control); paragraphs 0670 to 0672 (for reverse transmission power control); and paragraphs 0673 to 0675 (for forward transmission power control).

Furthermore, the amendments to Claims 10, 11, 19, and 20 newly recites that the first control means (or step) carries out transmission power control in accordance with a predetermined control pattern before the first communication apparatus becomes able to receive the transmission power control information. This is not new matter, since it is clearly described in paragraph 0014, lines 1-4. This is also described as the first transmission power increasing

process and the second transmission power increasing process in Fig. 43(A) and paragraphs 0644 to 0646.

In addition, the amendments to Claims 14, 17, 21, and 24 newly recite that the initial value of transmission power is the initial value of transmission power of the second communication apparatus or the another communication apparatus. The amendments to Claims 16 and 23 newly recite that the initial value of transmission power is the initial value of transmission power of the communication apparatus. This can be understood from the original wording of the claims, and is not new matter.

Finally, the amendments to Claims 15, 17, 22 and 24 newly recite that the first communication apparatus (or the communication apparatus) transmits a predetermined pattern as transmission power control information for controlling the transmission power of the second communication apparatus (or the another communication apparatus) instead of the transmission power control information based on SIR measurement results before the first communication apparatus (or the communication apparatus) becomes able to synchronize with a signal from the second communication apparatus (or the another communication apparatus). This amendment is because the predetermined pattern is a kind of transmission power control information, but is not the transmission power control information based on SIR measurement results. This is not new matter, since this is clearly described in paragraph 0645, lines 10-16.

Having now explained the support for the amendments to Claims 10-24 in the applicants' specification, the response will now explain why the rejections of Claims 10-24 in the original Office Action should be withdrawn.

Section 2 of the original Office Action rejected Claims 10-14, 16, 19, 20, 21 and 23 under 35 U.S.C. 102(e) as being anticipated by United States patent number 5,828,947 issued to Michel

et al. (the patent hereinafter referred to simply as "Michel"). Section 4 of the original Office Action rejected the remainder of the claims, Claims 15, 17, 18, 22 and 24, under 35 U.S.C. 103(a) as being unpatentable over Michel in view of United States patent number 5,671,219 issued to Jensen (the patent hereinafter referred to as "Jensen").

Michel discloses a satellite telecommunication network in which a first station SE and a second station SR communicates with each other via satellites 1 and 2. The second station SR measures quality levels Q1 and Q2 of signals from the satellites 1 and 2, and another quality level QT of a signal SMRT which is the result of combining the signals SMR1 and SMR2 (see Michel, from column 6, line 62 through column 7, line 6). The second station SR also measures signal to noise ratio values  $C1/N1(t)$ ,  $C2/N2(t)$  and  $CT/NT(t)$  for the signals SMR1, SMR2 and SMRT (see also Michel, from column 6, line 62 through column 7, line 6). These quality levels Q1, Q2 and QT and representative signal to noise ratio values  $C1/N1(t)$ ,  $C2/N2(t)$  and  $CT/NT(t)$  are then transmitted by the transmitter 22 of the second station SR to the receiver 14 of the first station SE, typically in the form of messages (see Michel, column 7, lines 7-11). In the first station SE the  $N=2$  pairs (Q1,  $C1/N1(t)$ ) and (Q2,  $C2/N2(t)$ ) are respectively applied to the  $N=2$  power control units 10 and 11 (see Michel, column 7, lines 12-14). The pair (QT,  $CT/NT(t)$ ) is applied to the power control unit 12 (see Michel, column 7, lines 14-15). Respective outputs of the units 10, 11 and 12 are connected to the selector unit 13 (see Michel, column 7, lines 15-16). The respective outputs of the units 10, 11 carry isolated command signals COM1 and COM2. The output of the unit 12 carries combined command signals COMT (see Michel, column 7, lines 16-18). The first station SE controls its transmission power according to one of signals COM1, COM2, and COMT.

However, although the second station SR in Michel measures the signal to noise ratio values  $C1/N1(t)$ ,  $C2/N2(t)$  and  $CT/NT(t)$ , the second station SR does not send to the first station SE transmission power control information for controlling transmission power of the first station SE. The first station SE does not receive transmission power control information in Michael. The quality levels Q1, Q2 and QT cannot be construed as transmission power control information which instructs to the destination apparatus to raise or lower its transmission power. Therefore, the disclosure of Michael is significantly different than the recitations of the independent Claims 10, 11, 14, 16, 17, 19, 20, 21, 23 and 24 of the subject application which each recite transmission and/or reception of transmission power control information.

Jensen discloses spread spectrum communication in which user stations 102 communicate with a base station 104. Each user station 102 transmits a power control pulse periodically to the base station 104. However, neither Michael nor Jensen discloses the first control means (or step) for carrying out transmission power control in accordance with a predetermined control pattern before the first communication apparatus (or the communication apparatus) becomes able to receive the transmission power control information from another communication apparatus in that manner recited in independent claims 10, 11, 19, and 20. In contrast to the Examiner's argument in the original Office Action Office Action (dated December 12, 2007), the cyclic regulation of power in Michel is performed after receiving the signal quality levels from the second station SR. In addition, the signal quality levels cannot be construed as transmission power control information. Moreover, the claimed predetermined control pattern is not related to the transmission power control information which will be received from another communication apparatus as can be understood from the context of the recitations of claims 10, 11, 19, and 20.

Furthermore, neither Michel nor Jensen discloses transmitting information regarding an initial value of transmission power of the second communication apparatus (or the another communication apparatus) to the second communication apparatus (or the another communication apparatus) in the manner recited in independent claims 14, 17, 21, and 24. Neither Michel nor Jensen discloses receiving information regarding an initial value of transmission power of the communication apparatus in independent claims 16 and 23. In the original Office Action, the Examiner deems the signals COM1, COM2, and COMT in Michel as the information regarding an initial value of transmission power. However, in Michel, the signals COM1, COM2, and COMT are produced at the first station SE, and the first station SE controls its transmission power according to one of signals COM1, COM2, and COMT. The signals COM1, COM2, and COMT are not information regarding an initial value of transmission power transmitted and received between different communication apparatus.

In the office action dated December 12, 2007, the Examiner also deems the quality levels Q1, Q2 and QT transmitted from the second station SR in Michel as the information regarding an initial value of transmission power. However, in Michel, the first station SE must execute complicated calculation based on the quality levels Q1, Q2 and QT and the signal to noise ratio values  $C1/N1(t)$ ,  $C2/N2(t)$  and  $CT/NT(t)$  received from the second station SR for deciding its transmission power. Transmission of the initial value of transmission power of the destination communication device as recited in many of the claims can simplify and reduce such a processing load at the destination communication device.

Furthermore, neither Michel nor Jensen discloses that the communication apparatus (or the first communication apparatus) transmits a predetermined pattern as transmission power control information for controlling the transmission power of the another communication

apparatus (or the second communication apparatus) instead of the transmission power control information based on SIR measurement results before the communication apparatus (or the first communication apparatus) becomes able to synchronize with a signal from the another communication apparatus (or the second communication apparatus) as recited in Claims 17 and 24. It should be noted that this predetermined pattern is not the transmission power control information based on SIR measurement results. In the original Office Action, the examiner deems the power control pulse 215 in Jensen as the predetermined pattern. However, Jensen does not disclose that each user station 102 transmits the control pulse 215 before the user station 102 becomes able to synchronize with a signal from the base station 104. Jensen does not disclose a predetermined pattern as transmission power control information instead of the transmission power control information based on SIR measurement results.

Therefore, independent Claims 10, 11, 14, 16, 17, 19, 20, 21, 23, and 24 are significantly different from Michael, Jensen, either singly or in combination.

In addition, neither Michael nor Jensen discloses features recited in dependent Claims 12 and 13. Neither Michael nor Jensen discloses the predetermined control pattern as described above in conjunction with independent claim 11. Neither Michael nor Jensen discloses that the predetermined control pattern is a pattern for increasing transmission power step by step. Neither Michael nor Jensen discloses that the predetermined control pattern is a pattern for increasing the transmission power to a predetermined value, and subsequently, less rapidly increasing the transmission power.

In addition, neither Michael nor Jensen discloses features of dependent Claims 15 and 22. The claimed predetermined pattern is not the transmission power control information based on SIR measurement results. In the original Office Action, the Examiner deems the power control

pulse 215 in Jensen as the predetermined pattern. However, Jensen does not disclose that each user station 102 transmits the control pulse 215 before the user station 102 becomes able to synchronize with a signal from the base station 104. Jensen does not disclose a predetermined pattern as transmission power control information instead of the transmission power control information based on SIR measurement results.

In addition, neither Michael nor Jensen discloses features of dependent claim 18. Neither Michael nor Jensen discloses the predetermined pattern as described above in conjunction with independent claim 17. Neither Michael nor Jensen discloses varying the predetermined pattern.

Accordingly, the 35 U.S.C. 102(e) and 35 U.S.C. 103(a) rejections should be withdrawn, and such is respectfully requested. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 12<sup>th</sup> day of March, 2009.

Respectfully submitted,

/Adrian J. Lee/

Adrian J. Lee  
Registration No. 42,785  
Attorney for Applicants  
Customer No. 022913

AJL:jml